

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Dr. Aaron DeMaio
23 Pray Street, Amherst, MA 01002

Property owner: Jones Properties LTD Partnership
15A Pray Street, Amherst, MA 01002

Date application filed with the Town Clerk: July 6, 2010

Nature of request: To structurally alter and enlarge a non-conforming building, under Section 9.22 of the Zoning Bylaw

Address: 15-33 Pray Street (Map 11C, Parcel 274, B-G Zoning District, MP & DR districts)

Legal notice: Published on July 7, 2010 and July 14, 2010 in the Daily Hampshire Gazette and sent to abutters on July 6, 2010

Board members: Barbara Ford, Eric Beal, Tom Ehrgood

Submissions:

- Project Application Report, dated July 16, 2010;
- The ZBA application filed with the Town Clerk on July 6, 2010;
- Floor plan, sheet A1.0, prepared by Stephen Jablonski Architects dated July 8, 2010;
- Front and side elevations, sheet A2.0, prepared by Stephen Jablonski Architects dated July 8, 2010;
- Rear and side elevations, sheet A2.1, prepared by Stephen Jablonski Architects dated July 8, 2010;
- A copy of a Town GIS map showing existing Zoning Districts, dated July 15, 2010;
- A color rendering of the front elevation, sheet A2.0R, prepared by Stephen Jablonski Architects dated June 30, 2010, submitted during the hearing.

Site Visit: July 20, 2010

The Board members viewed the site separately. Barbara Ford met Dr. Aaron DiMaio, Brad Gabel with All Tek Construction, and Joseph Zgrodnik at the site. The Board members observed the following:

- The location of the property entirely within the General Business (B-G) Zoning District;
- The existing two-story building containing multiple office and commercial uses on both floors;
- The existing elevated walkway along the entire front of the building and row of parking spaces. The front faces other commercial and retail uses within the B-G District;

- The rear of the building is flanked by a paved driveway running the entire length and contains numerous heating/cooling systems positioned on the first floor and decking /egress stairs on the second floor. The rear of the building faces the West Cemetery, which is within the General Residence (R-G) Zoning District.

Public Hearing: July 22, 2010

Mr. DeMaio was accompanied by Brad Gabel of All Tek Construction, and Dr. Joe Zgrodnik.

Mr. Ehrgood disclosed Mr. Zgrodnik is a fellow Amherst College alumnus with whom he knows, but that the relationship will not influence judgment on this case. Mr. Zgrodnik stated that Mr. DeMaio has taken over the practice and the he is no longer involved in the practice.

Mr. DeMaio presented a color rendering of the front elevation of the building and stated the following:

- He owns the orthodontist practice. He was presented with an opportunity to occupy the adjacent space and is in the process of preparing plans to expand;
- He is also proposing two (2) exterior changes to the building and learned that a Special Permit is required because the building is non-conforming;
- The first change is an addition to the rear of the building to add a mechanical room to store noisy dental equipment. The equipment is currently located in the back of the office because the building does not have a basement. The mechanical room has been designed so that it doesn't extend any further than the edge of the second floor decking;
- The rear of the building is disorganized and contains heating and air conditioning units, a second floor deck which extends for most, but not all of the rear of the building.
- The second change is an addition to the front of the building to add a new vestibule/ entry doorway. The existing front door opens directly into the waiting room. In the summer months and winter months there is no air lock, which decreases the energy efficiency of the building. The main reason for the vestibule is to provide a barrier from the air exchange which will help to improve the energy efficiency of the office. It will also add more character to the front of the building;
- The vestibule has been designed so that it is compatible with the exterior of the existing building, including colors and window style;
- The vestibule extends only a few inches past the existing concrete planter and will not substantially reduce the amount of walkway in the front of the building;
- The Design Review Board recommended approval of both additions to the building as well as the color, materials, signs and lighting;

The Board members confirmed the following:

- The color rendering, sheet A2.0R, is dimensionally the same as sheet A2.0;
- Although not stamped, the submitted architectural plans accurately reflect what is being proposed. The final building permit plans will be stamped with an architectural seal and any substantial change would be required to be reviewed by the Board;
- The rear property line is shown on the rear and side elevation, sheet A2.1. The second floor deck creates line of non-conformity as it creates a rear yard setback of 16.5 feet where 20 feet is required under Table 3 of the Zoning Bylaw;
- The rear driveway is mainly used for purposes of service and deliveries and pedestrian travel and is rarely used for parking;

- As depicted on the Town's GIS map, the addition to the front of the building is not within 200 feet of the side boundary of a Residence District abutting the same street within the same block. Therefore no front setback is required for this property in accordance with footnote "c" of Table 3.

The Board members concluded that based on the submitted plans and testimony, that the proposed additions do not increase the non-conformity of the building in accordance with Section 9.20 of the Zoning Bylaw.

The Board members identified that the proposed additions constitute an alteration to a non-conforming structure, regulated under Section 9.22 of the Zoning Bylaw.

Mr. Ehrgood MOVED to close the evidentiary portion of the public hearing. Ms. Ford seconded the motion and the Board VOTED unanimously to close the public hearing.

Public Meeting:

Specific Findings:

The Board found under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses. The addition of the storage area will enhance the aesthetics by reducing the number of heating and cooling units which are visible in the rear of the building. The materials for the storage structure will consist of white siding to match the existing exterior of the building. The addition in the front of the building will add to the aesthetic character of the building and will aid in making Mr. DeMaio's portion of the building more energy efficient. The materials and design of the vestibule will match the existing exterior of the front of the building.

10.382 and 10.385 – The proposal would not constitute a nuisance and reasonably protects the adjoining premises against detrimental or offensive uses on the site. The permit requires that all exterior lights be downcast to prevent light from being broadcast off the property. The design and materials for each addition are compatible with the existing structure.

10.383 – The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians. The addition to the rear of the building will not extend further than the existing second floor decking and will not impede any portion of the existing paved driveway at the rear of the building. The addition to the front of the building will only extend a few inches past the existing concrete planter box and will not restrict the use of the walkway by pedestrians.

10.386 - The proposal ensures that it is in conformance with the Parking and Sign regulations.

The signs associated with the use were not part of this application because they are conforming to the requirements of the Zoning Bylaw and have been reviewed and approved by the Design Review Board.

10.391 and 10.395 - The proposal protects, to the extent feasible, unique or important natural, historic or scenic features and does not create disharmony with respect to the scale and architecture of existing buildings. The additions to the building are minimal in size and scale and both will be constructed using materials which are compatible with the existing exterior of the building. The additions to the building will be an improvement to both the rear and front of the building.

10.393 –The proposal provides protection of adjacent properties by minimizing the intrusion of lighting. The new exterior lighting fixtures will be downcast to prevent intrusion of lighting onto adjacent properties.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw and the goals of the Master Plan. The proposal does not increase the non-conformity of the building and is not more detrimental to the neighborhood than the existing decking. The additions to the building will not impede pedestrian or vehicle access and will enhance the aesthetics of the building. The approval of the additions supports the Master Plan goal of economic development by “supporting sustainable growth of existing businesses”.

The Board found under Section 9.22 of the Zoning Bylaw, that:

For all of the reasons stated in Section 10.38, the alterations are not more detrimental to the neighborhood than the existing non-conformity.

Public Meeting – Zoning Board Decision

Ms. Ford moved to APPROVE the application with conditions. Mr. Beal seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit, ZBA FY2011-00001, to allow for the structural alteration and enlargement of a non-conforming building, under Section 9.22 of the Zoning Bylaw, at 15-33 Pray Street (Map 11C, Parcel 274, B-G, MP, DR Zoning District) with conditions.

ERIC BEAL

BARBARA FORD

TOM EHRCOOD

FILED THIS _____ day of _____, 2010 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2010.

NOTICE OF DECISION mailed this _____ day of _____, 2010
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2010,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2011-00001, to allow for the structural alteration and enlargement of a non-conforming building, under Section 9.22 of the Zoning Bylaw, at 15-33 Pray Street (Map 11C, Parcel 274, B-G, MP, DR Zoning District) with the following conditions:

1. The additions to the front and rear of the building shall be constructed in accordance with the plans prepared by Stephen Jablonski Architects, stamped approved on July 22, 2010;
2. Any substantial changes to the approved plans shall be submitted to the Zoning Board of Appeals for review and approval at a public meeting;
3. All exterior lighting associated with the improvements shall be downcast.

Eric Beal, (Acting Chair)
Amherst Zoning Board of Appeals

DATE